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May 14, 2007

## **BY E-FILING**

The Honorable Mary Pat Thyng  
United States District Court  
844 King Street  
Wilmington, DE 19801

Re: *Honeywell International Inc., et al v. Apple Computer Inc., et al.*  
C.A. Nos. 04-1337, -1338, and -1536-\*\*\* (Consolidated)

Dear Judge Thyng:

On behalf of the Manufacturer Defendants, I write to recapitulate the items that we anticipate will be addressed during the telephone conference which has been scheduled for 11:00 a.m. on Thursday, May 17, 2007:

(1) Fuji's April 10, 2007 letter motion for an order compelling production from Honeywell of a clawed-back document related to a then-proposed license on the patent-in-suit to a third party and related documents referring to valuation of the patent-in-suit ("Fuji discovery dispute no. 1") (D.I. 763);

(2) Fuji's April 10, 2007 letter motion for an order compelling production from Honeywell of a clawed-back document and data, documents, and things related to "teardowns" (i.e., dismantling of products) performed by Honeywell (D.I. 764) ("Fuji discovery dispute no. 2");<sup>1</sup>

(3) Optrex's April 10, 2007 letter motion for an order compelling certain discovery from Honeywell relating to Honeywell's "hit rate" (D.I. 765); and

(4) Honeywell's May 9, 2007 letter motion for an order compelling additional deposition time with Hitachi and seeking a judicial declaration regarding *res judicata* (D.I. 801).<sup>2</sup>

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<sup>1</sup> In connection with this motion, Fuji expects Honeywell, if it has not already done so, to submit to Your Honor a copy of the clawed-back document – which Honeywell insisted be destroyed by the Defendants – for *in camera* review.

<sup>2</sup> Although Honeywell's May 9, 2007 letter motion was filed after the Court issued its Order setting the May 17 telephone conference (D.I. 785, filed on April 27, 2007), the April 27 Order did reference "discovery disputes between Honeywell and Optrex, **Hitachi**, and Fuji" (emphasis added), and therefore the Manufacturer Defendants assume that this dispute is on the agenda as well.

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The Honorable Mary Pat Thyng

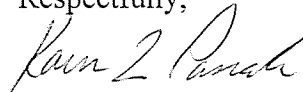
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In addition, we would like to take the opportunity on the 17<sup>th</sup> to address an exigent issue regarding extension of the original case schedule. As things stand, opening expert reports on invalidity and unenforceability may be due shortly, on June 1, 2007, in view of Your Honor's advising on February 22, 2007 that you would grant at least a three-month extension of the schedule set forth in Judge Jordan's March 28, 2006 Scheduling Order. *See* 2/22/07 Tr. (D.I. 718) at 66. Still pending is Honeywell's application to extend the schedule by six months. Discovery is presently ongoing, with further depositions of Honeywell and of Defendants scheduled in June 2007 and additional third party depositions expected within the same time period, at least some of which may bear on the expert reports. As recently as last week, the Manufacturer Defendants and Honeywell attempted, but failed, to reach a clear and definitive agreement on an interim extension of the current case schedule pending Your Honor's ruling on Honeywell's application, although it appears that Honeywell does not object to extending the schedule on an interim basis for at least one additional month.

Therefore, the Manufacturer Defendants respectfully request that the Court formally extend the original schedule by four months. This is merely an interim request in light of the impending deadlines, and could be effected without prejudice to any party's position on Honeywell's outstanding application for a six-month extension.

Respectfully,



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